

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DENEIL TARDIFF,

Plaintiff,

-vs-

ENCOMPASS INSURANCE COMPANY,

Defendant.

Case No. 09-10511

Hon: AVERN COHN

ORDER DENYING MOTION TO REMAND

This is a diversity case removed to this Court from Genesee County Circuit Court. Plaintiff has moved for remand on the grounds diversity is lacking, 28 USC §1332(c)(1), because defendant insurer should be deemed a citizen of the state (Michigan) in which the insured (plaintiff) is a citizen, and because defendant has not established by a preponderance of the evidence that the amount in controversy exceeds \$75,000.00. The motion is DENIED.

28 USC §1332(c)(1) is not applicable. See Davis v. State Farm Automobile Insurance Company, 382 F.Supp.2d 957 (E.D. Mich. 2005) (Cohn, J).

The petition to remand does not comply with L.R. 81.1, and particularly subsection (d):

If a plaintiff moves to remand, contending that the amount in controversy does not exceed the required jurisdictional amount, the plaintiff must include with the motion a signed statement of damages claimed, itemizing all damages by category and amount, or, for those categories for which the plaintiff is unable to specify a precise amount, an estimate of

the maximum amount and a detailed description of the factual basis for the estimate.

Moreover, the petition for removal contains allegations of fact sufficient to justify the \$75,000.00 requirement.

SO ORDERED.

s/ Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: May 22, 2009

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, May 22, 2009, by electronic and/or ordinary mail.

s/ Julie Owens
Case Manager, (313) 234-5160